

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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MAXIMILLION XAVIER MATTHEWS and  
BRANDON TYRONE REID, Minors, by their next  
friend MELISSA BOZESMAN,

UNPUBLISHED  
March 31, 2000

Plaintiff- Appellant,

and

DEPARTMENT OF SOCIAL SERVICES,

Intervening Plaintiff,

v

PHC OF MICHIGAN,

No. 206678  
Wayne Circuit Court  
LC No. 94-423540 NO

Defendant-Third-Party Plaintiff,

and

JOSEPH A. BUTLER and EULA M. BUTLER,

Third-Party Defendants,

and

RAYMOND MCBETH and LILIAN MCBETH,

Third-Party Defendants-Appellees.

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Before: Wilder, P.J., and Sawyer and Markey, JJ.

MEMORANDUM.

Plaintiff appeals by right the order dismissing this action with prejudice. We affirm.

Plaintiff brought this action alleging that the named minors suffered injuries when they ingested lead based paint on defendants' premises. Trial was set to begin July 14, 1997, and the trial court denied plaintiff's motion to adjourn on July 11, 1997. Although the parties discussed a voluntary dismissal without prejudice, no order was entered. Plaintiff's counsel failed to appear for trial, and the court dismissed the matter with prejudice. On reconsideration, the court found that the initial order was entered improperly, but re-entered an order of dismissal with prejudice.

A trial court's dismissal of an action is reviewed for abuse of discretion. *Bolster v Monroe Co Bd of Road Commissioners*, 192 Mich App 394, 399; 482 NW2d 184 (1991). MCR 2.504(B) provides for the involuntary dismissal of an action if a plaintiff fails to comply with the court rules or a court order. It is within the discretion of the court whether to dismiss a matter with prejudice. *Gardner v Stodgel*, 175 Mich App 241, 251; 437 NW2d 276 (1989). Under the circumstances of this case, there is no showing that the trial court abused its discretion in dismissing the matter with prejudice.

Affirmed.

/s/ Kurtis T. Wilder  
/s/ David H. Sawyer  
/s/ Jane E. Markey